

April 22, 2016

The Honorable Thomas Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

RE: MB Docket 16-42

Dear Chairman Wheeler:

I write to you today to express my organization's concern over the lack of substantiated research analyzing how the Commission's proposed set-top box mandate is likely to impact the economic opportunities, creative outlets, and programming choices enjoyed by the Cuban-American community and other communities of color across the United States. The Cuban American National Council is alarmed by clear warnings from the content and programming communities about the likely impact of this mandate on small, independent, and diverse networks, and we strongly object to the Commission's insistence on pushing this proceeding forward without first taking the time to fully study the scope of these negative impacts.

As drafted, the proposed mandate will dramatically change the television industry, shifting revenue and negotiating leverage away from programmers and content creators toward technology companies building new devices and apps under the rule – companies that won't be required to negotiate with programmers or contribute anything to the cost of producing the underlying content. Minority programmers who depend upon licensing deals to enforce critical terms like carriage fees, channel placement, digital rights, and advertising restrictions will lose their bargaining power and see their content devalued if tech giants like Google are allowed to repackaging their content for free without having to honor these contractual terms.

Device and app makers will also be able to add new advertisements around the video streams and search guides without sharing any of the revenue with the content's owners. Minority networks will face grave uncertainty as negotiated guarantees around channel placement give way to new program guides and Google-style search menus, where niche programming will be disadvantaged against larger and better known shows. Some programmers have warned that the result could be "digital redlining", with shows aimed at minority audiences buried at the bottom of the pile and cut off from their audiences.

Taken together, these changes appear likely to significantly reduce the revenues of networks owned by and serving communities of color. Some networks may not survive, and those that do will likely have to cut production budgets, which will have ripples throughout the creative economy. The result will be fewer and lower-quality options for diverse programming and less economic opportunity for minority content

creators and producers – all to benefit a narrow group of wealthy technology companies that already have deeply disappointing diversity records.

The FCC should not be in the business of putting its thumb on the scale in such a manner, especially when the marketplace is already teeming with more options for video devices, services, and content choices than ever before. More than two dozen leading civil rights and social justice organizations have already voiced opposition to this deeply flawed plan, and the Commission has yet to offer any adequate response to these concerns. The Latino community deserves better than a half-baked plan rushed through without any real consideration by the Commission of the impact it will have on diverse and independent programming.

Sincerely,



Sonia Lopez
President and CEO

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